### Journal of the Senate

#### SECOND REGULAR SESSION

#### SIXTIETH DAY—TUESDAY, APRIL 27, 2004

The Senate met pursuant to adjournment.

Senator Shields in the Chair.

Reverend Carl Gauck offered the following prayer:

"For you need endurance, so that when you have done the will of God, you may receive what was promised." (Hebrews 10:36)

Merciful God, the days grow long and we need Your strength and endurance so that we may accomplish what is right and needful here. Grant us faithfulness that we may meet the challenges of this day and seek to do Your bidding. In Your Holy Name we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

A quorum being established, the Senate proceeded with its business.

The Journal of the previous day was read and approved.

Photographers from the Associated Press and KRCG-TV were given permission to take pictures in the Senate Chamber today.

The following Senators were present during the day's proceedings:

Present—Senators

Bartle	Bland	Bray	Callahan
Caskey	Cauthorn	Champion	Childers

Clemens	Coleman	Days	Dolan
Dougherty	Foster	Gibbons	Goode
Griesheimer	Gross	Jacob	Kennedy
Kinder	Klindt	Loudon	Mathewson
Nodler	Quick	Russell	Scott
Shields	Steelman	Stoll	Vogel
Wheeler	Yeckel—34		

Absent with leave—Senators—None

#### RESOLUTIONS

Senator Dougherty offered Senate Resolution No. 1816, regarding W. Dudley McCarter, which was adopted.

Senator Klindt offered Senate Resolution No. 1817, regarding Probation and Parole Officer II Debbie Bonderer, Chillicothe, which was adopted.

#### HOUSE BILLS ON THIRD READING

**HS** for **HCS** for **HB** 1566, with **SCS**, introduced by Representative Stefanick, entitled:

An Act to repeal sections 208.145, 208.146, 208.151, 208.152, 208.631, 208.636, and 208.640, RSMo, and to enact in lieu thereof nine new sections relating to medical assistance cost containment within the Medicaid program.

Was taken up by Senator Cauthorn.

SCS for HS for HCS for HB 1566, entitled:

#### SENATE COMMITTEE SUBSTITUTE FOR HOUSE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1566

An Act to amend chapter 208, RSMo, by adding thereto two new sections relating to medical assistance cost containment within the Medicaid program.

Was taken up.

Senator Cauthorn moved that **SCS** for **HS** for **HCS** for **HB 1566** be adopted.

Senator Cauthorn offered SS for SCS for HS for HCS for HB 1566, entitled:

# SENATE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR HOUSE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1566

An Act to repeal section 208.215, RSMo, and to enact in lieu thereof three new sections relating to medical assistance cost containment within the Medicaid program.

Senator Cauthorn moved that **SS** for **SCS** for **HS** for **HCS** for **HB 1566** be adopted.

Senator Cauthorn offered SS for SS for SCS for HS for HCS for HB 1566, entitled:

SENATE SUBSTITUTE FOR
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HOUSE SUBSTITUTE FOR
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HOUSE BILL NO. 1566

An Act to amend chapter 208, RSMo, by adding thereto two new sections relating to medical assistance cost containment within the Medicaid program.

Senator Cauthorn moved that SS for SS for SCS for HS for HCS for HB 1566 be adopted.

Senator Loudon offered **SA 1**, which was read:

#### SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Substitute for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bill No. 1566, Page 3, Section 208.212, Line 16 of said page, by inserting at the end of said line the following: "The department of social services shall promulgate rules that require applicants for medical assistance to state on their application whether they have purchased an annuity within twenty-four months of filing such application.".

Senator Loudon moved that the above amendment be adopted.

Senator Loudon offered **SSA 1** for **SA 1**:

## SENATE SUBSTITUTE AMENDMENT NO. 1 FOR SENATE AMENDMENT NO. 1

Amend Senate Substitute for Senate Substitute for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bill No. 1566, Pages 2-3, Section 208.212, by striking all of said section from the bill and inserting in lieu thereof the following:

- "208.213. 1. For purposes of Medicaid eligibility, investment in annuities shall be limited to those annuities that:
- (1) Are actuarially sound as measured against the Social Security Administration Life Expectancy Tables, as amended;
- (2) Provide equal or nearly equal payments for the duration of the device and which exclude "balloon" style final payments; and
- (3) Provide the state of Missouri secondary or contingent beneficiary status ensuring payment if the individual predeceases the duration of the annuity, in an amount equal to the Medicaid expenditure made by the state on the individual's behalf.
- 2. The department shall establish a thirtysix month look-back period to review any investment in an annuity by an applicant for Medicaid benefits. If an investment in an annuity is determined by the department to

have been made in anticipation of obtaining or with an intent to obtain eligibility for Medicaid benefits, the department shall have available all remedies and sanctions permitted under federal and state law regarding such investment. The fact that an investment in an annuity which occurred prior to the effective date of this section does not meet the criteria established in subsection 1 of this section shall not automatically result in a disallowance of such investment. The department of social services shall promulgate rules that require applicants for medical assistance to state on their application whether they have purchased an annuity within thirty-six months of filing such application.

3. The department of social services shall promulgate rules to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.": and

Further amend the title and enacting clause accordingly.

Senator Loudon moved that the above substitute amendment be adopted.

At the request of Senator Cauthorn, **HS** for **HCS** for **HB 1566**, with **SCS**, **SS** for **SCS**, **SS** for **SCS**, **SA 1** and **SSA 1** for **SA 1** (pending), was placed on the Informal Calendar.

#### MESSAGES FROM THE HOUSE

The following message was received from the

House of Representatives, through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the Speaker has appointed the following conferees to act with a like committee from the Senate on SCS for HS for HCS for HB 1002, as amended. Representatives: Bearden, Lager, Stevenson, Walker, Hoskins.

#### PRIVILEGED MOTIONS

Senator Nodler moved that **SB 1080**, with **HCS**, as amended, be taken up for 3rd reading and final passage, which motion prevailed.

HCS for SB 1080, as amended, entitled:

#### HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1080

An Act to repeal sections 160.518, 160.538, and 160.720, RSMo, and to enact in lieu thereof two new sections relating to education accountability standards.

Was taken up.

Senator Nodler moved that **HCS** for **SB 1080**, as amended, be adopted, which motion prevailed by the following vote:

YEAS—Senators				
Bland	Bray	Callahan	Caskey	
Cauthorn	Champion	Clemens	Coleman	
Days	Dolan	Dougherty	Foster	
Gibbons	Goode	Griesheimer	Gross	
Kennedy	Kinder	Klindt	Loudon	
Mathewson	Nodler	Russell	Scott	
Shields	Steelman	Vogel	Wheeler	
Yeckel—29				

NAYS—Senator Jacob—1

Absent—Senators

Bartle Quick Stoll—3

Absent with leave—Senator Childers—1

On motion of Senator Nodler, **HCS** for **SB 1080**, as amended, was read the 3rd time and passed by the following vote:

YEAS—Senators			
Bland	Bray	Callahan	Caskey
Cauthorn	Champion	Clemens	Coleman
Days	Dolan	Dougherty	Foster
Gibbons	Goode	Griesheimer	Gross
Kennedy	Kinder	Klindt	Loudon
Mathewson	Nodler	Russell	Scott
Shields	Steelman	Vogel	Wheeler
Yeckel—29			

NAYS—Senators Jacob Quick—2

Absent—Senators
Bartle Stoll—2

Absent with leave—Senator Childers—1

The President declared the bill passed.

On motion of Senator Nodler, title to the bill was agreed to.

Senator Nodler moved that the vote by which the bill passed be reconsidered.

Senator Gibbons moved that motion lay on the table, which motion prevailed.

Bill ordered enrolled.

On motion of Senator Gibbons, the Senate recessed until 2:30 p.m.

#### **RECESS**

The time of recess having expired the Senate was called to order by Senator Shields.

#### HOUSE BILLS ON THIRD READING

Senator Cauthorn moved that **HS** for **HCS** for **HB 1566**, with **SCS**, **SS** for **SCS**, **SS** for **SS** for **SCS**, **SA 1** and **SSA 1** for **SA 1** (pending), be called from the Informal Calendar and again taken up for 3rd reading and final passage, which motion prevailed.

**SSA 1** for **SA 1** was again taken up.

Senator Nodler assumed the Chair.

At the request of Senator Cauthorn, **HS** for **HCS** for **HB 1566**, with **SCS**, **SS** for **SCS**, **SS** for

SS for SCS, SA 1 and SSA 1 for SA 1 (pending), was placed on the Informal Calendar.

#### MESSAGES FROM THE HOUSE

The following message was received from the House of Representatives, through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed SCS for SB 1100.

Bill ordered enrolled.

#### SECOND READING OF CONCURRENT RESOLUTIONS

The following Concurrent Resolution was read the 2nd time and referred to the Committee indicated:

**HCR 21**—Rules, Joint Rules, Resolutions and Ethics.

#### RESOLUTIONS

Senator Kennedy offered Senate Resolution No. 1818, regarding the Fiftieth Wedding Anniversary of Mr. and Mrs. Byron Johnston, Des Peres, which was adopted.

Senator Vogel offered Senate Resolution No. 1819, regarding Sandra K. Sanning, Jefferson City, which was adopted.

Senator Vogel offered Senate Resolution No. 1820, regarding Corrections Officer III Charles Wilson, Holts Summit, which was adopted.

Senator Vogel offered Senate Resolution No. 1821, regarding Corrections Officer III David Corum, Jefferson City, which was adopted.

Senator Vogel offered Senate Resolution No. 1822, regarding Corrections Officer III Richard Corser, Jefferson City, which was adopted.

Senator Bartle offered Senate Resolution No. 1823, regarding the Seventy-fifth Anniversary of the Farmers Insurance Group, which was adopted.

Senator Champion offered Senate Resolution No. 1824, regarding the 2003-2004 Southwest Missouri State University Lady Bears basketball team, Springfield, which was adopted.

Senator Scott offered Senate Resolution No. 1825, regarding Frances Lyle, Clinton, which was adopted.

Senator Childers offered Senate Resolution No. 1826, regarding Gregory L. May, which was adopted.

Senator Childers offered Senate Resolution No. 1827, regarding Karen S. Woods, which was adopted.

Senator Loudon offered Senate Resolution No. 1828, regarding Michael William DeMarco, Ballwin, which was adopted.

Senator Caskey offered Senate Resolution No. 1829, regarding Cheryl Sue Boos, Peculiar, which was adopted.

#### INTRODUCTIONS OF GUESTS

Senator Griesheimer introduced to the Senate, Randy Lewis, Wright City; and Eric Park, Washington.

Senator Foster introduced to the Senate, Judith Davis, Arika Ballenger, Michael Biri, Rusti Curnutt, Todd Fowler, Rickey Gower, Jessica Meadows, Venessa Tanksley and Rachel Whelan, students from Southern Missouri Christian School, Poplar Bluff.

Senator Loudon introduced to the Senate, Wayne, LaVerne and Kim Swisher, Ballwin.

Senator Loudon introduced to the Senate, the Physician of the Day, G. Patrick O'Donnell, M.D., and his wife, Lupe, Chesterfield.

Senator Callahan introduced to the Senate, Judge Susan Watkins and her family, Independence.

Senator Yeckel introduced to the Senate, Nancy Werkmeister and seventy-one eighth grade students and adults from St. Catherine Laboure School, St. Louis; and Emily Doerr, Brett Hill, John Vaughn and Jennifer Weil were made honorary pages.

Senator Griesheimer introduced to the Senate,

Steve Seneczyn, Wildwood.

Senator Wheeler introduced to the Senate, former State Representative Bonnie Sue Cooper, Wayne Cauthen and Becky Nacy, Kansas City.

Senator Caskey introduced to the Senate, Crystal Burch and fourth grade students from Northeast Vernon County School; and Crystal Bogardus and Tanner Stutzman were made honorary pages.

Senator Caskey introduced to the Senate, Chris Livingston, his son Taylor and his father-inlaw, Bill Barbieri, Pleasant Hill.

Senator Caskey introduced to the Senate, Tim Silvers, Adrain; and Tom Livingston, Overland Park, Kansas.

Senator Scott introduced to the Senate, Bonnie Swisher, Richard Orr, Carolyn Harms, Principal Becky Gallagher and students from Windsor Elementary-Henry County R-I School; and Devin Eggers, Chase Drenon, Trenton Scott, Kyndra McCampbell and Baille Strong were made honorary pages.

Senator Stoll introduced to the Senate, Oliver A. Berwin, Jr., and Janet, Regina, and Samantha Berwin, Festus.

Senator Stoll introduced to the Senate, Shirley Keener with Christian Outreach School, Hillsboro.

Senator Griesheimer introduced to the Senate, Anthony Shaffar, Wildwood; and Frederick Welling, Eureka.

Senator Coleman introduced to the Senate, eighth grade students from River Roads Lutheran School, St. Louis.

Senator Clemens introduced to the Senate, David and Robin Marlin, and their daughter, Ashley, Conway; and Ashley was made an honorary page.

On behalf of Senator Shields, the President introduced to the Senate, students from Truman Middle School, St. Joseph.

Senator Yeckel introduced to the Senate, Geri Pitti and twenty-four eighth grade students and adults from St. Matthias the Apostle School, St. Louis.

Senator Gibbons introduced to the Senate, Staff Sergeant, Joel Rutherford, University City.

Senator Days introduced to the Senate, Joe Prophet and Ed Stallings, St. Louis.

On behalf of Senator Shields, the President introduced to the Senate, Teresa Talipana,

National Distinguished Principal for Missouri, Park Hill School District, Kansas City.

Senator Goode introduced to the Senate, his wife, Jane, St. Louis County; and his daughter Jennifer Goode, Seattle, Washington.

On motion of Senator Gibbons, the Senate adjourned under the rules.

#### SENATE CALENDAR

#### SIXTY-FIRST DAY-WEDNESDAY, APRIL 28, 2004

#### FORMAL CALENDAR

THIRD READING OF SENATE BILLS

SS for SCS for SB 1034-Childers SS for SB 1023-Griesheimer SCS for SB 810-Klindt

#### SENATE BILLS FOR PERFECTION

SB 1366-Yeckel, with SCS SB 1196-Klindt, with SCS SB 1096-Caskey, with SCS SB 735-Foster, et al, with SCS SB 1153-Cauthorn SB 1185-Gross

#### HOUSE BILLS ON THIRD READING

- 1. HCS for HBs 795, 972, 1128 & 1161, with SCS (Childers)
- 2. HS for HCS for HB 978-Baker (Yeckel) (In Fiscal Oversight)
- 3. HCS for HB 959, with SCS (Yeckel)
- 4. HB 1493-Emery, et al, with SCS (Scott)
- 5. HCS for HB 1288, with SCS (Griesheimer)
- 6. HCS for HB 1040 & HCS for HB 1041, with SCS (Nodler) (In Fiscal Oversight)

- 7. HS for HCS for HBs 1268 & 1211-Smith (118), with SCS (Loudon) (In Fiscal Oversight)
- 8. HCS for HB 1177, with SCS (Cauthorn)
- 9. HCS for HB 980 (Klindt)
- 10. HCS for HB 1115 (Gross)
- 11. HCS for HBs 998 & 905 (Griesheimer)
- 12. HCS for HB 833, with SCS (Vogel)
- 13. HCS for HB 898, with SCS (Shields)
- 14. HCS for HBs 946, 1106 & 952, with SCS (Dolan)

15. HS for HB 1487-Self (Scott)

16. HCS for HB 1055 (Vogel) (In Fiscal Oversight)

17. HCS for HB 1215, with SCS (Bartle)

#### INFORMAL CALENDAR

#### SENATE BILLS FOR PERFECTION

SB 728-Steelman, with SCS

SBs 738 & 790-Loudon, with SCS & SS for

SCS (pending)

SS for SS for SCS for SB 755-Shields

SBs 774 & 915-Wheeler, with SCS

SB 787-Childers, with SCS, SA 1 & SSA 1

for SA 1 (pending)

SB 809-Klindt, with SCS, SS for SCS &

SA 2 (pending)

SB 817-Kennedy and Griesheimer, with

**SCS** 

SB 856-Loudon, with SCS, SS for SCS, SS

for SS for SCS, SA 2 & SSA 1 for

SA 2 (pending)

SB 906-Foster, with SCS

SBs 908 & 719-Cauthorn, with SCS

SB 933-Yeckel, et al

SB 989-Gross, et al, with SCS (pending)

SB 990-Loudon, with SCS

SB 1037-Steelman and Stoll, with SCS

SBs 1069, 1068, 1025, 1005 & 1089-Gross

and Griesheimer, with SCS, SS for SCS, SA 2 & SA 2 to SA 2 (pending)

SB 1124-Goode and Steelman, with SCS

SB 1128-Cauthorn, with SCS

SB 1132-Steelman, et al, with SCS

SB 1138-Bartle

SB 1159-Foster and Dougherty

SB 1180-Shields and Kinder, with SCS

SB 1198-Russell, with SCA 1

SB 1213-Steelman and Gross, with SCS

SBs 1221 & 1305-Kinder, with SCS, SS

for SCS, SA 1 & SA 1 to SA 1

(pending)

SB 1227-Russell, et al, with SCS

SB 1232-Clemens, et al, with SCS

(pending)

SB 1234-Mathewson and Childers, with

SCS, SS for SCS, SA 4 & point of

order (pending)

SB 1254-Klindt, with SCS

SB 1277-Yeckel, with SCS

SBs 1332 & 1341-Caskey and Mathewson,

with SCS

**SB** 1355-Days

SJR 24-Caskey and Bartle, with SCS

SJR 25-Yeckel

SJR 26-Yeckel

SJR 40-Stoll

SJR 41-Kinder, et al, with SCS

#### HOUSE BILLS ON THIRD READING

HB 969-Cooper, et al, with SA 1 (pending) (Bartle)

HCS for HB 1182, with SCS (Klindt)

SCS for HCS for HB 1305 (Scott)

(In Fiscal Oversight)

HS for HCS for HB 1566-Stefanick, with SCS, SS for SCS, SS for SS for SCS, SA 1 & SSA 1 for SA 1 (pending) (Cauthorn)

#### CONSENT CALENDAR

Senate Bills

Reported 2/9

SB 741-Klindt

Reported 3/15

SB 1189-Scott, with SCS

House Bills

Reported 4/5

SCS for HBs 1071, 801, 1275 & 989-Goodman (Childers)

HB 975-Johnson (47), et al (Wheeler)

Unofficial Reported 4/7

HB 1070-Miller, et al (Scott)
HB 938-Luetkemeyer, with SCS (Loudon)
HCS for HB 985 (Childers)

HB 970-Portwood, et al (Shields)
HS for HCS for HB 1290-Portwood, with
SCS (Steelman)

Reported 4/13

HB 822-Luetkemeyer, et al, with SCS (Vogel)

HB 1187-Ervin, et al (Quick)

HCS for HB 1321, with SCS (Klindt)

HB 1362-Hobbs, et al (Cauthorn)

HB 1377-Sutherland, et al (Griesheimer)

HB 1398-Lager (Klindt)

HB 1407-Mayer and Villa (Dolan)
HCS for HB 1456 & HB 824, with SCS
(Foster)

HB 1494-Ervin (Quick)

HBs 1613, 1445, 1454, 1462, HCS for HB 1471, HBs 1608, 1612 & 1635-

Morris, with SCS (Champion)

Reported 4/14

HB 1603-Lager (Klindt)

HCS for HBs 1529 & 1655 (Griesheimer)

HCS for HB 1136, with SCS (Dolan)

HCS for HB 1422 (Cauthorn)

HCS for HB 1171 (Klindt)

HB 1259-Threlkeld (Griesheimer)

HB 1126-Seigfreid, et al (Mathewson)

HCS for HB 1198 (Loudon)

HB 1502-Wilson (42), et al (Wheeler)

HB 1217-Johnson (47), et al, with SCS

(Wheeler)

HB 1572-St. Onge, et al (Loudon)

HCS for HB 1614 (Steelman) (In Fiscal Oversight)

HCS for HB 1253, with SCS (Loudon)

HB 884-Ward (Loudon)

HCS for HB 1233 (Griesheimer)

HCS for HB 1090 (Quick)

HB 1440-Deeken, with SCS (Scott)

HB 1508-Baker (Bartle)

HCS for HB 1660, with SCS (Klindt)

HB 1616-Hanaway, et al (Gibbons)

HB 1444-Moore, et al (Vogel)

HCS for HB 988 (Bartle)

HB 1634-Behnen, with SCS (Gross)

#### Reported 4/15

HB 1317-Kingery, et al (Gibbons)

HCS for HB 1405 (Callahan)

HB 1114-Skaggs (Loudon)

HB 1167-Kelly (144), et al (Clemens)

HCS for HB 1284 (Dolan)

HCS for HB 912 (Goode)

HCS for HB 1449 (Vogel)

HB 1149-May, et al (Steelman)

HB 1442-Lipke, et al (Kinder)

HB 960-Roark, with SCS (Champion)

HBs 1029, 1438 & 1610-Henke, with SCS

(Dolan)

HB 826 & HCS for HB 883-Kelley (144),

with SCS (Russell)

HBs 996, 1142, HCS for HB 1201 &

HB 1489-Dusenberg, et al, with SCS

(Bartle)

HCS for HB 928, HCS for HB 1123 & HCS

for HB 1280-Bivins, with SCS

(Yeckel)

HCS for HB 1179 (Days)

HCS for HBs 1631 & 1623 (Champion)

HCS for HB 798, with SCS (Klindt)

HB 1364-Bishop, et al, with SCS (Quick)

HB 1188-Lipke, et al, with SCS (Bartle)

HB 904-Luetkemeyer (Vogel)

HB 1427-Portwood (Wheeler)

HB 994-Cunningham (145), et al (Scott)

HB 869-Townley, et al (Caskey)

HCS for HB 1192, with SCS (Cauthorn)

HB 1048-Parker, et al (Klindt)

#### SENATE BILLS WITH HOUSE AMENDMENTS

SS for SCS for SBs 740, 886 & 1178-

Klindt, with HCS, as amended



BILLS IN CONFERENCE AND BILLS CARRYING REQUEST MESSAGES

In Conference

SB 739-Klindt, with HCS, as amended

HS for HCS for HB 1002-Bearden, with SCS, as amended (Russell)

HS for HCS for HB 1003-Bearden, with SCS (Russell)

HS for HCS for HB 1004-Bearden, with SCS (Russell)

HS for HCS for HB 1005-Bearden, with SCS, as amended (Russell)

HS for HCS for HB 1006-Bearden, with SCS (Russell)

HS for HCS for HB 1007-Bearden, with SCS, as amended (Russell)

HS for HCS for HB 1008-Bearden, with SCS (Russell)

HS for HCS for HB 1009-Bearden, with SCS (Russell)

HS for HCS for HB 1010-Bearden, with SCS, as amended (Russell)

HS for HCS for HB 1011-Bearden, with SCS, as amended (Russell)

HS for HCS for HB 1012-Bearden, with SCS, as amended (Russell)

#### **RESOLUTIONS**

#### Reported from Committee

SR 1451-Yeckel SCR 44-Yeckel SCR 45-Dougherty SCR 46-Gross SCR 47-Griesheimer
HCR 10-Myers (Klindt)
HCR 12-Kelly (36) (Mathewson)

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# Journal

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